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Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 493.

JACKSON W. GILES, APPELLANT,

vs.

E. JEFF. HARRIS ET AL., BOARD OF REGISTRARS OF MONTGOMERY COUNTY, ALABAMA.

MOTION TO ADVANCE.

WILFORD H. SMITH,
Counsel for Appellant.

(18,721.)

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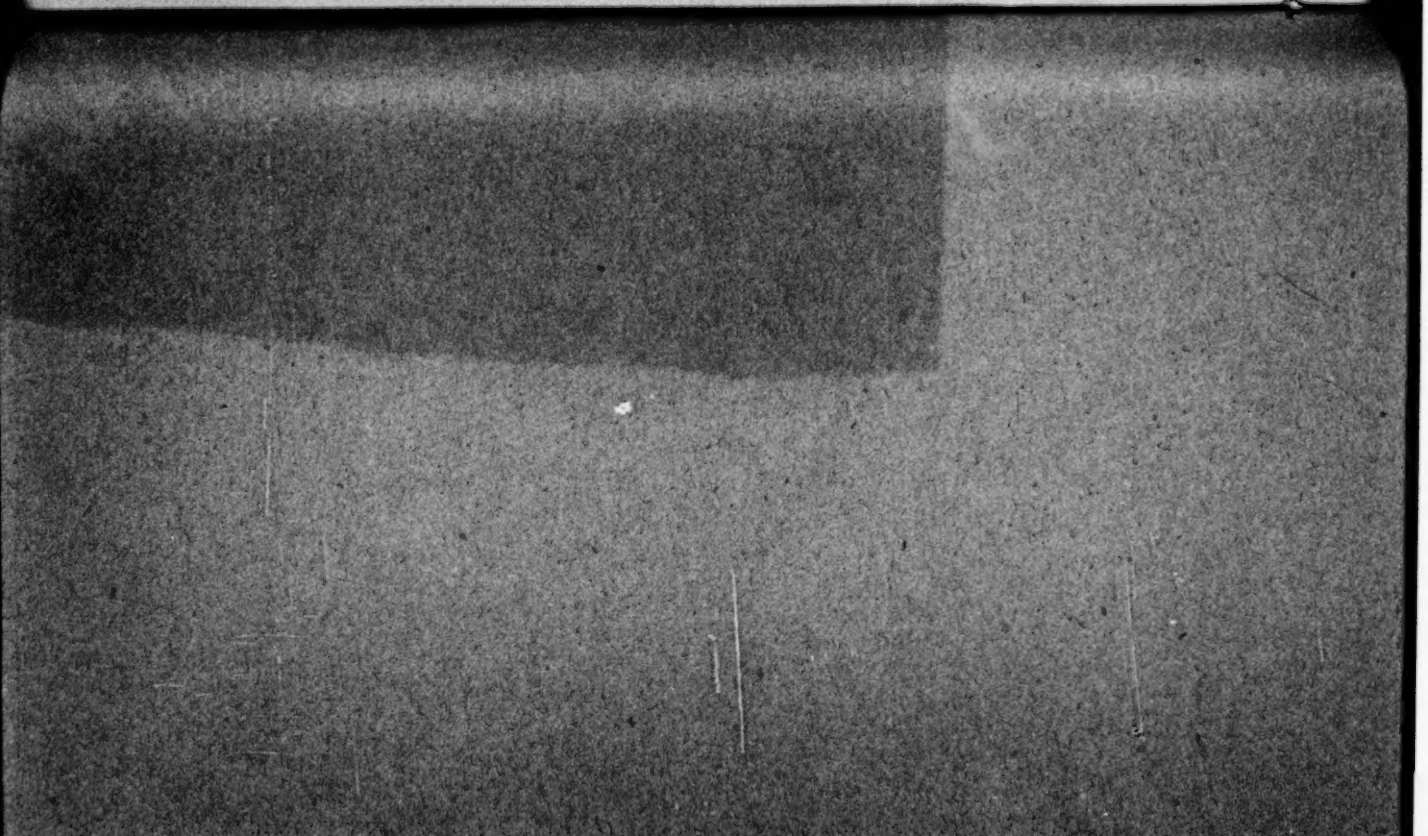

Supreme Court of the United States.

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JACKSON W. GILES, APPELLANT,

against

E. JEFF HARRIS ET AL., BOARD OF REGISTRARS, MONTGOMERY COUNTY, ALABAMA.

MOTION TO ADVANCE.

And now comes the appellant, by his counsel appearing in that behalf, and moves the court to advance said cause to an early and speedy hearing for the following reasons, to wit:

First. Because the only question involved in the case is that of jurisdiction and whether or not it is one of equitable cognizance.

Second. Because the question of jurisdiction has been certified to this court by the judge of the circuit court.

BRIEF STATEMENT OF FACTS.

The appellant, who is a negro, filed a bill in equity in the United States circuit court for the middle district of Alabama, alleging that the suffrage provisions of the new constitution of Alabama were obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States in their intent and purpose and in their language and meaning, as well as by their operation and administration, and in effect as well as in fact deprived him and his race of the equal protection of the law and of their right to vote for no other reason than their race and color and previous condition of servitude.

And that the said appellees, who were charged with the administration of said suffrage provisions, had refused to register appellant and issue to him a certificate of qualification as an elector in the State of Alabama for no other reason than his race and color, and had also refused to register more than five thousand (5,000) colored persons in Montgomery county, Alabama, who were qualified under the law of the State of Alabama and of the United States, for no other reason than their race and color, and that by such acts on the part of said appellees the appellant and his race were about to be deprived of their right to vote for State and Federal offices in the election to take place on November 4, 1902, for no other reason than their race and color and previous condition of servitude, while all the white men in the State of Alabama were registered and given certificates of qualification and will be allowed to vote in said coming election, and prayed that said suffrage provisions of the new constitution of Alabama be declared null and void, and

that said appellees be enjoined from enforcing the same or from doing any act in the premises which would deprive appellant and his race of their right to vote in said approaching election on account of their race and color and previous condition of servitude.

That said appellees demurred to said bill, setting up the want of jurisdiction of the court and the want of equity in the bill and other grounds, and that when the same came on to hearing said court sustained the demurrer and dismissed the bill on the ground of want of jurisdiction and want of equity, and certified the question of jurisdiction to this court under the act of March 3, 1891.

OBJECT OF THE MOTION.

The question involved in this case is entirely new as to the manner of procedure and is of general interest to the public, in that it will bring in review the new constitutions of nearly all the Southern States that have similar suffrage provisions. The object of the motion is to have these questions determined by this court as early as possible.

WILFORD H. SMITH,
Counsel for Appellant.

IN THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1902.

Number 493.

To Messrs. GUNTER & GUNTER and
Hon. CHARLES G. BROWN,
Attorney General of the State of Alabama,
Counsel for Appellees, Montgomery, Alabama:

Please take notice that on Monday, the 10th day of November, 1902, at the opening of the court, or as soon thereafter as counsel can be heard, the motion of which the foregoing is a copy will be submitted to the Supreme Court of the United States for the decision of the said court thereon.

WILFORD H. SMITH,
Counsel for Appellant.

STATE OF NEW YORK, }
City and County of New York, } ss:

Wilford H. Smith, being duly sworn, makes affidavit that on the 5th day of November, 1902, he deposited in the mail a true copy of the above notice and motion, properly addressed to Gunter & Gunter, attorneys, and Hon. Charles G. Brown, attorney general of the State of Alabama, counsel for appellees, at Montgomery, in the State of Alabama, and with the postage prepaid thereon, and that in due course of mail the same would reach them in forty-eight hours after mailing.

WILFORD H. SMITH.

Sworn to and subscribed before me this 5th day of November, 1902.

[SEAL.] HARRY A. ANDERSON,
Notary Public for Westchester County.

Certificate filed in New York county.

[Endorsed:] File No., 18,721. Supreme Court U. S., October term, 1902. Term No., 493. Jackson W. Giles, app't, *vs.* E. Jeff Harris *et al.* Motion to advance, notice, and proof of service. Filed Nov. 6th, 1902.